

TAB 1- 2010 testimony from Dennis Polk, Esq. who testified in favor of SB 52, recognizing that the “insurance crisis” argument is made “every time I’ve been before the legislature” and it “rings hollow.”

TAB 2- Continued 2010 testimony from Dennis Polk, Esq. who testified that proper insurance underwriting will follow the passage of HB 1394 and acceptable premium increases of a reasonable nature will follow.

TAB 3- 2010 testimony of Mark Lattimer, President and CEO of Rocky Mountain Chapter of the Associated Builders and Contractors stating members support passage of HB 1394 recognizing that “the premiums may need to go up, but responsible ones will price it.”

TAB 4- Article from Journal of Colorado Association of Home Builders on passage of HB 1394 including statement from Dennis Polk, Esq. that some insurance carriers will likely leave the market or increase premiums as a result of passage of HB 1394 and to those he states “Good riddance. You weren’t providing coverage anyway.”

*COLORADO HOUSE OF REPRESENTATIVES HOUSE
BILL 1394*

April 7, 2010

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1 a declaratory judgment action seeking not only no
2 further obligation to defend or indemnify, but then
3 they want to recover the attorney's fees and costs
4 they've expended in defending this thing for seven,
5 eight years. Builders don't anticipate that.

6 The insurance industry sold this product and
7 now some of them are frankly saying it's the I don't
8 want to pay endorsement. They took my premium dollars.
9 They haven't given the premium dollars back. And so we
10 need to correct this imbalance.

11 Some might ask, well why aren't you going
12 through the judicial process? Typically, insurance
13 companies file these actions in the federal district
14 courts. The Federal District Court is not the fastest
15 place to proceed to resolution. And then to appeal
16 those decisions, you have to go to the Tenth Circuit.
17 And then hopefully then you can ask the Colorado
18 Supreme Court to look at it. We're talking a time span
19 of four, five, six years where many small builders,
20 they won't be in business. And Mr. Sullan and his
21 colleagues who have legitimate plaintiff's claims where
22 there are defects, they aren't going to get paid
23 because the bankruptcy court ends up being the only
24 answer. And that's not good for anyone.

25 We believe that we have tried to meet with

1 the insurance industry -- and I will tell you in
2 candor, there are some issues we have not been able to
3 reasonably resolve with them. You'll hear them say,
4 gosh, golly, we'll have an insurance crisis. I've
5 heard that argument every time I've been before the
6 legislature. Every time I've been in court. It just
7 rings hollow to me because I haven't seen one of them
8 yet return their premium dollars.

9 Respectfully, in addressing this matter we
10 have tried to tailor something to provide guidance.
11 And the more responsible insurance companies welcome
12 guidance, because they know what the rules are. Right
13 now, this climate out there is like a knife fight. I'm
14 using the Butch Cassidy line; the only rule in a knife
15 fight is, there are no rules. And we're asking to
16 return from this chaos to an ordered progression.

17 I'd be happy to try to answer specific
18 questions. I want to make it clear that the intent of
19 this -- and because of the nature of the drafting
20 procedure -- that this does not apply to professional
21 liability insurance. It is designed primarily to deal
22 with insurance that is provided to construction people.
23 I know that has been an issue. I think one of the
24 amendments you're going to hear makes it clear that we
25 aren't talking about claims made, architect, engineer

1 professional liability. But we are attempting to put
2 this wheel back on balance.

3 Again, and I hesitate to do this because this
4 is just one of many, this product was sold absolutely
5 -- and these insurance forms, they're not exciting to
6 read -- I've unfortunately had to make a living reading
7 them, and I can tell you that I fall asleep very early
8 at night because of that small print. It's many, many
9 pages, and as I get older, I have to read it with a
10 magnifying glass.

11 But when my builder clients, my contractors,
12 my subcontractors pay hundreds of thousands of dollars
13 based upon assurances from companies that say we're
14 offering you builder contractor specific protection for
15 your company, and when it comes time to protect them,
16 they disappear. And that's what this is about.

17 CHAIR: Thank you, Mr. Polk.

18 Are there any questions for Mr. Polk?

19 (No audible response)

20 CHAIR: Are there any questions for
21 Mr. Sullan?

22 (No audible response)

23 CHAIR: All right. Thank you both for being
24 here today.

25 MR. SULLAN: Thank you for having us, Madam

1 Chair.

2 MR. POLK: Thank you.

3 CHAIR: Jeff Ruebel, please come forward.

4 State your name and tell us who you represent.

5 MS. HEINTZ: My name is Cathleen Heintz. I'm
6 going to introduce some of our comments for myself and
7 Mr. Ruebel. We wanted to kind of break this out into
8 two parts. One is to give you sort of a general
9 framework for which that this bill was drafted with
10 (indiscernible) in the insurance industry, as well as
11 the construction industry. And then Mr. Ruebel is
12 going to talk about some specifics of the bill that we
13 think can be modified to reach a reasonable consensus
14 between all the parties that are involved in this
15 matter.

16 CHAIR: Miss Heintz, if you would, could you
17 let us know who you represent?

18 MS. HEINTZ: Absolutely. I'm with the
19 litigation firm of Hall & Evans and we represent a
20 number of lobbying organizations for the insurance
21 industry. I specifically have been involved in
22 insurance for about 25 years. Most recently, my
23 practice has involved me most directly in the
24 construction -- insurance coverage in the construction
25 industry.

COLORADO HOUSE OF REPRESENTATIVES

HOUSE BILL 1394

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<p style="text-align: right;">Page 5</p> <p>1 not to bore everyone, the Colorado Court of Appeals 2 several years ago announced a case that we refer to as 3 General Security. In essence, this was a dispute 4 between insurance companies after they had settled and 5 resolved a case that involved homeowner claims in 6 Boulder County. One insurance company sued another 7 saying the other insurance company pay their fair 8 share. 9 But low and behold when it reached the Court 10 of Appeals, it announced a decision that I think was 11 inconsistent with 30 years of Colorado legal history. 12 The reading of that case by other courts and other 13 people is a blanket statement that construction 14 defects, no matter how they're cast or thrown out there 15 in the world, are not a covered occurrence. Well, what 16 that means is then they're not going to pay damages 17 that result from it. So you know there's a long 18 history with regard to insurance coverage that starts 19 with an organization called the ISO. There are all 20 kind of circulars and writings and general contractors, 21 builders and subcontractors that have paid millions of 22 dollars for insurance coverage anticipating damages 23 that were caused by some negligent conduct. 24 Well, a number of other courts, and 25 principally federal courts -- because when insurance</p>	<p style="text-align: right;">Page 7</p> <p>1 policies. I don't know about you, but unfortunately 2 I've had to earn a living reading insurance policies. 3 And I can assure you that is a not a good way to stay 4 awake at night. And, you know, they're long, they're 5 difficult, and they're hard to understand. 6 And so we're seeking guidance and certainty 7 with regard to those decisions. And so we know, as an 8 industry, that the millions of dollars that we paid in 9 premiums, we're going to get the coverage we expected 10 and that homeowners are going to be taken care of. 11 Even this morning, I received a letter from an 12 insurance company where there are defects in 13 construction. There were problems with the 14 subcontractors' work. There were roofing and window 15 issues that caused damage to the other portions of the 16 property -- water intrusions, drywall, carpeting damage 17 and that insurance company said, bottom line, "As a 18 result of the General Security decision, the Greystone 19 decision, the Boulder Plaza decision, have a nice life. 20 We're not going to protect you. And we're not going to 21 pay for things." 22 Well, the reality is -- and the frank reality 23 is that homeowner, they're hurt; that builder is hurt; 24 and a lawsuit is going to happen in connection with 25 this where everyone is going to come out as sausage.</p>
<p style="text-align: right;">Page 6</p> <p>1 companies come along, they always try to file their 2 lawsuits over in the federal court, rather than our 3 state system. There are two significant federal court 4 decisions that have just cast a blanket statement that 5 says general liability policies of this nature don't 6 answer for and don't provide a defense or insurance 7 coverage for construction defects. One is called 8 Greystone, and another is called Boulder Plaza. They 9 just do a flat, blanket statement. 10 Now, why that's important is because the 11 structure of an insurance policy provides that an 12 insurance company pays damages that someone is legally 13 obligated that is caused by an occurrence or accident. 14 An accident has historically tend to determine in 15 Colorado to include construction defects. Now, the 16 limiting condition in those policies -- there's always 17 been that there has to be property damage caused by the 18 work of, say, a subcontractor. 19 Well, the intent and purpose of the first 20 section of this bill is to address and make clear and 21 certain for the benefit of builders, homeowners, 22 subcontractors that a construction defect provided that 23 subject to the other terms of the policy is an 24 accident. And it provides rules of construction for 25 the courts to follow when interpreting insurance</p>	<p style="text-align: right;">Page 8</p> <p>1 And I say that because of the nature of the damages are 2 what are indicated in this case, that builder doesn't 3 have no money to pay. He doesn't have no money to 4 satisfy the judgment or repair this home. And I will 5 tell you, you know, there's a million dollar policy, 6 and this guy paid almost \$300,000 for that insurance 7 policy. 8 And that's the kind of real world problem 9 this bill is here to address. You're going to hear a 10 lot of things from the insurance people here today 11 telling you, "Oh, gosh. Foul. No good, and it's 12 wrong. The sky is falling. You do this, insurance 13 rates are going through the ceiling." But the 14 practical effect of what they are saying -- because 15 Colorado has a statute of repose in construction 16 defects of essentially eight years, in six or eight 17 years, depending on how you look at it. And damages 18 are progressive and continuance throughout those seven 19 or eight years. They paid policies of a million 20 dollars a year for each of those years. And lo and 21 behold, everybody is now looking at a circumstance 22 where there is no coverage. 23 Which kind of deals with the second aspect of 24 the bill and one that we firstly have to look at. But 25 answer to the insurance companies mantra here today and</p>

1 the mongering that you're going to hear and the things
 2 from other organizations is gosh, the price of
 3 insurance is going to be driven. People aren't going
 4 to be in the market. But you have to ask yourself,
 5 what works: not to have any insurance for eight years
 6 while we're dealing with those, or to be looking at
 7 premium increases of a reasonable nature in magnitude?
 8 It's going to force the insurance company to more
 9 properly underwrite what they do, look at things --
 10 and, you know, those contractors that are there and say
 11 they can't get insurance, maybe they shouldn't be doing
 12 business anyway. You know, that's just kind of the
 13 frank reality. Pay the premium, have insurance and
 14 protect your consumer.

15 The second aspect of the bill -- and if I
 16 may, I have copies of a larger document that I've
 17 prepared. There are two different charts and everybody
 18 would have one. The second part of the bill is more
 19 difficult, I guess, unless you deal with insurance
 20 policies every day of your life, to fully explain. And
 21 if I may take a moment and explain it. And these are
 22 graphics that I've prepared from an actual case, and
 23 these have actual statements from insurance companies.
 24 But they have to do with what we're trying to address
 25 in the second part of the bill, is a result of cases

1 that come from California and others. The insurance
 2 industry responded to something by adopting
 3 endorsements to insurance policies where you have had
 4 the current policies for many years. They're written
 5 year after year after year.

6 But in some of those policies, they put an
 7 endorsement on that says no matter how many insurance
 8 policies you have, even though construction defects and
 9 the damages are progressive and continuous and may span
 10 over more than one policy, we're only ever going to pay
 11 on one policy.

12 And the first graph that I have talks about
 13 the effect of that endorsement. What's troubling
 14 enough in the world is that there is that type of
 15 endorsement. And again, I have just tried to
 16 illustrate here from a true example of the positions
 17 insurance companies are taking in active litigation and
 18 quote some things that you're seeing on these come out
 19 of actual letters from insurance companies. We've
 20 taken the names out so we don't get into that
 21 (indiscernible), but the words are there. So what has
 22 happened now is my construction client, be he is a
 23 subcontractor, a general contractor or a builder, has
 24 paid premiums for one, two, three, four, five, six,
 25 seven, eight years. That's the statute of repose

1 that's here. In each of those years he pays for a
 2 million dollars worth of insurance coverage to cover
 3 damages.

4 Lo and behold, out here in this year he gets
 5 a letter. He has a strange alliance -- and I'm here
 6 with Mr. Sullan and the plaintiff's firm because I
 7 represent builders. We've looked at this problem. And
 8 the consequence of what has happened now because our
 9 courts reasonably, because we have this progressive and
 10 continuous loss that goes on, has said that you can't
 11 necessarily say water intrusion or something like that
 12 caused all the damage at a straight moment in time.
 13 It's not like when a hot water heater blows up that we
 14 can point out and say that's damage. Our courts have
 15 said that each year on the risk -- that is from the
 16 time the home was built and delivered and sold to the
 17 customer until you get the notice of claim -- each one
 18 of those policies is triggered.

19 So it's not enough if the insurance companies
 20 had said in these endorsements we're only to pay under
 21 one policy. They then go the next step and say, "Aha,
 22 because it's is progressive and continuous damage, even
 23 though we underwrote the risk knowing that would be an
 24 occurrence, we're going to prorate the amount that we
 25 would ever pay for any claim to a single policy period.

1 And because it's years on the risk, now you have 1/8th
 2 of the coverage that you thought you paid for. The
 3 most we'll ever pay is \$125,000 for any claim, no
 4 matter what. Okay. Then the problems are going to
 5 start to begin.

6 Many responsible builders pay for an excess
 7 insurance policy above a certain amount so if damages
 8 exceed the policy, they get paid for, say, \$10 million
 9 excess policy. Now, when you look at what I've said,
 10 this is what comes from the primary carrier. The
 11 inclusion of this endorsement limits the coverage
 12 available to a single occurrence limit.

13 So I go to the second sort of graphic that
 14 we've done. And these are little quotes from excess
 15 carriers who have sent my client rejection letters
 16 saying, "We're not going to participate now because
 17 you've had coverage in each one of these other year.
 18 Even though they're not going to pay, you've had that
 19 coverage available." And because there's been a years
 20 on the risk and this policy year -- remember that was
 21 the one million dollars, this carrier says the most
 22 they'll ever pay is the \$125,000. That excess carrier
 23 now says these little words, "Builder, homeowner,
 24 subcontractor, contractor, you're on your own."

25 You know, we're not talking about inexpensive

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1 **CHAIR:** Any other questions? Senator
2 Mitchell?

3 **MR. MITCHELL:** Madam Chairman. Ms. Wells, if
4 you had made it up, I think maybe three people in the
5 room would have known. But the question to Ms. Wells
6 and to Ms. Campbell, you tell us that this bill goes
7 too far in solving the problem. Are you proposing
8 language here today that solves the problem as the
9 General Security case while avoiding going too far?

10 **CHAIR:** Does one of you have an answer? Ms.
11 Campbell?

12 **MS. CAMPBELL:** I will go ahead and address
13 that, Madam Chairman, if that's okay.

14 Senator Mitchell, we have been working to try
15 and find that language. And so we have not found it
16 yet. And unfortunately, I don't have this language
17 here at this time, but it is something we have been
18 working on.

19 **CHAIR:** Are there any other questions? Thank
20 you. Senator Scheffel, the rest of the folks that have
21 (indiscernible) for the bill, do you have any
22 particular order?

23 **MR. SCHEFFEL:** If we could start with Mark
24 Olsen.

25 **CHAIR:** Mark Olsen? Good afternoon. State

1 decision along the way all the from the time this
2 litigation started. Our company has been in business
3 48 years. Over those years, we've spent millions of
4 dollars on general liability policies expecting this
5 coverage. We've spent hundreds of thousands of dollars
6 for coverage in this particular case and these
7 particular policies with Trimm and Forrester. And now,
8 not only are they suggesting that there's no coverage,
9 they've filed suit to seek the determination on that
10 basis. And the consequences for us or not good.

11 **CHAIR:** Are there any questions? Thank you.

12 **MR. OLSEN:** Thank you.

13 **CHAIR:** Just go down the list, Senator
14 Sheffield or --

15 **MR. SHEFFIELD:** We can do Bob Moody next.

16 **CHAIR:** Bob Moody? I don't see Bob. He's
17 maybe in the hall.

18 **MR. SCHEFFEL:** David --

19 **CHAIR:** Dave Garland. Hey. How about Mark
20 Lattimer while we're waiting?

21 **MR. LATTIMER:** Thank you, Madam Chairman and
22 members of the committee. My name is Mark Lattimer.
23 And I am the president and CEO of the Rocky Mountain
24 chapter of the Associated Builders and Contractors.
25 We're one of two associations here in Colorado

1 your name and who you represent.

2 **MR. OLSEN:** Thank you. My name is Mark
3 Olsen. I am vice-president with Pickards Construction.
4 We are involved in a construction defect case in
5 Boulder County that's gone on over seven years at this
6 point. We're also a locally-based company with
7 generally between 100 and 200 employees. And an
8 adverse judgment in this case would be very harmful to
9 us, as it would any business in our situation.

10 Trimm (phonetic) and Forrester was our
11 carrier. They issued policies to us over a number of
12 years during and around the time the project was built.
13 And they have stepped up and controlled the defense,
14 the cross claims, the appeals and all the other related
15 matters in this case for over six years. After the
16 General Security and Greystone decisions were
17 announced, they began to refuse to participate in the
18 process. They refused to be involved in the discussion
19 of settlement or resolution and have since filed in
20 federal district court seeking a determination that
21 there is no coverage in this case and sought to recover
22 attorneys' fees and all their costs associated with
23 defending us for all these years.

24 They've done this in spite of the fact that
25 they controlled litigation. They contributed critical

1 represented by our national organizations. Between the
2 two different chapters, we have over 350 members. That
3 includes general contractors, subcontractors, associate
4 suppliers and also our industry professionals, several
5 of which are insurance brokers.

6 The policy that we're looking at is something
7 that has been of great debate. Obviously, we're
8 concerned both for the general and subcontractor level
9 because we represents both types of members, but we
10 also value our insurance partners, as well. And the
11 legislation that we're looking at has been thoroughly
12 vetted by both our government affairs and our board of
13 directors, both of which have members from the
14 insurance industry on those bodies and has voted in
15 support of House Bill 1394. So I'm here to speak in
16 favor of the bill.

17 I'll keep it short. I'm not an attorney, so
18 I can't address some of the technical issues. But our
19 members, as I said before, are both general contractors
20 and subcontractors, are very concerned that they have
21 been paying premiums for coverage that they have
22 believed and have been led to believe all along that
23 they were covered with until the most recent court
24 cases. And because of the statute of repose that the
25 previous witness had talked about, they feel like the

1 premiums that they had paid and rightfully had told
2 that theirs were covered, now the rules of the game has
3 changed.

4 I don't know if this is a correct example or
5 not, but one of the examples used by one of our members
6 was kind of like you had car insurance and you were
7 paying car insurance for seven years and all along you
8 were told that hail damage was covered. And then, last
9 year someone came along and said that, "No. Hail
10 damage is now being deemed an act of God. And though
11 you've paid premiums and we've told you that that can
12 be covered, the rules of the game have changed, and
13 we're not going to cover you anymore, although you paid
14 the premiums." So someone else may be able to address
15 that with an appropriate example, but that's how our
16 members feel.

17 There is concern, obviously, that in terms of
18 increase of premiums. But overwhelmingly what we have
19 heard back from our members is they're better to have
20 slightly or increased premiums than to have no
21 coverage. Because of the consequences of the exposures
22 they would have, that's why you get insurance, is to
23 cover an incident that may occur. And if you can't get
24 that insurance or you're not covered by something
25 you're paying premiums for, what's the point of having

1 the insurance?

2 The other thing that I would say to that is
3 we also have some -- our insurance members -- a belief
4 that the industry will adjust. The reputable firms,
5 the responsible firms -- some are already covering.
6 They're not trying to use the General Security clause
7 to get out of paying for claims. They believe they
8 have a right to defend their partners, their clients,
9 their construction members. And that the underwriting
10 -- yes, the premiums may need to go up, but responsible
11 ones will price it. And with some certainty if this
12 legislation passes, they will be able to price it
13 accordingly because they'll know, in terms of actuary
14 tables and the other things that they do, how to
15 appropriately price it.

16 We don't believe that the insurance agents
17 are going to go out there and just gouge our numbers.
18 But if there is an increase in premium, it will be
19 appropriate to the coverage. That's the end of my
20 testimony.

21 CHAIR: Any questions? Senator Sheffield?

22 MR. SCHEFFEL: Thank you, Madam Chair. Mr.
23 Lattimer, that you for coming today. If you feel
24 comfortable, could you just address the issue -- it
25 sounded like your membership or constituency was

1 similar to one of the previous witnesses for
2 subcontractors. And your comfort with the bill as it
3 stands vis-a-vis the desire that a person's or
4 subcontractors' obligation to repair workmanship, that
5 that is not affected by this bill (indiscernible)?

6 CHAIR: (indiscernible).

7 MR. LATTIMER: Madam Chairman, from the
8 discussions that we've had, they do not that this bill
9 affects that at all, that it would remain as it
10 currently is. There is also concern that they don't
11 see any language in the bill. And we've had insurance
12 carriers, we've had construction lawyers, everyone look
13 at it and address it and has not said that they think
14 that is a valid concern.

15 CHAIR: Any other questions? Thank you.
16 Senator Belsha (phonetic). I'm sorry.

17 MS. BELSHA: Mr. Lattimer, are there certain
18 insurance companies that this is the usual rather than
19 on occasion that this happens? Are there insurance
20 companies that you represent that are smaller that deal
21 with this on an ongoing basis and are more
22 complementary. Or I don't know -- I know what I'm
23 trying to say here. Are there bad apples that are
24 always bad apples in this realm?

25 CHAIR: Mr. Lattimer?

1 MR. LATTIMER: Madam Chair. You know, I
2 don't want to call those out. I believe by and large,
3 most of the insurance brokers and underwriters and
4 carriers do so in good faith. There are some folks
5 that are perceived to be bad apples in the industry.
6 But our members tend to -- the free market works --
7 they tend to move away from those insurance companies
8 where if they're known that they're going to not defend
9 you or they're going to try and find any type of legal
10 loophole to get out of defending you as your agent,
11 then they move to other, what they consider, more
12 responsible carriers.

13 CHAIR: Any other questions? Thank you. Jay
14 Darling? Please state your name properly.

15 MR. DEVIA: Yes. Thank you, Madam Chair. It
16 will be the last time I'm called darling, I'm sure.

17 CHAIR: You never know.

18 MR. DEVIA: But my name is Dave Devia
19 (phonetic). And I am an executive vice-president and
20 CEO of the Colorado Association of Mechanical and
21 Plumbing Contractors. I'm here to testify on behalf
22 our organization, which represents subcontractors as
23 well as the Rocky Mountain chapter of the National
24 Electrical Contractors Association, which is electrical
25 contractors; the Colorado chapter of the National

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To ensure passage, CAHB enlisted home owners' help

It was such an important piece of legislation that builders, for the first time in CAHB history, sought collaboration with home owners. "The builder community is sensitive to the ultimate effect that this has on consumers," Polk said. "Because they are concerned about their buyers, it seemed appropriate to engage the assistance of other people who can be adversely affected by this series of decisions."

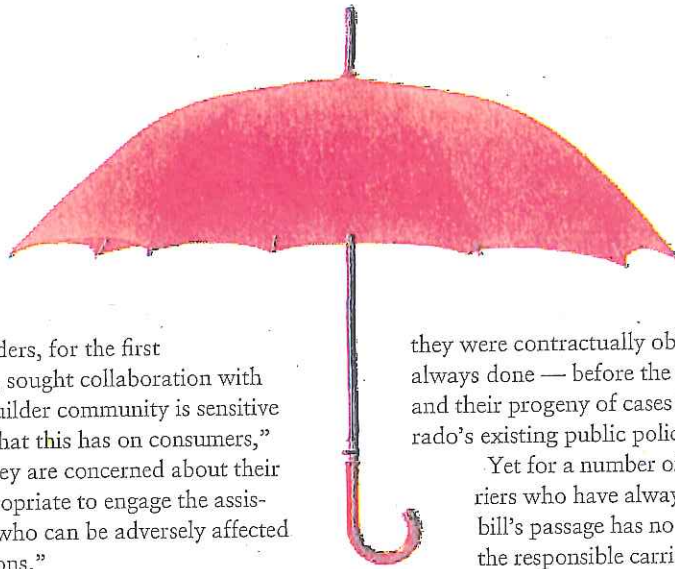
CAHB Lobbyist Steve Durham observed that this collaboration was a first in his experience. "It's one of those cases where home owners who have received a product that has a construction defect are entitled to have that repaired. Builders don't have the money to pay for repair absent insurance. This is a pro consumer bill that restores insurance coverage for which home builders had paid, and gives consumers the benefit of that coverage. This bill insures the solvency of the industry."

Ron Sandgrund, principal with Sullan2, Sandgrund, Smith & Perczak, P.C., added that Colorado residential property owners and CAHB have the same interest in ensuring that the insurance industry's promises of insurance coverage for damages arising from construction defects are enforced. "While disagreements between home builders and home owners will inevitably arise from time to time," he said, "their combined effort on HB-1394 shows that that can also work together constructively to solve some problems."

During the legislative hearings on HB-1394, Sandgrund explained that the insurance industry was forced to admit that the recent Colorado Court of Appeals and U.S. District Court case decisions that found there was no coverage for construction defects "were misreading the policy language and contradicting the insurance industry's longstanding intent to provide such coverage since 1986."

Note to builders: Do diligence when buying insurance

The new law restores the insurance coverage builders have paid for, while giving consumers the benefit of that coverage. "There's more than one lesson in this," Durham said. "Yes, we did successfully restore builders' coverage, but you need to be diligent in going forward. It's important to exercise caution and due diligence when purchasing insurance. Be sure to deal with reputable, reliable companies."



As the bill made its way to the Governor's office to be signed, Polk said that recalcitrant carriers were already stepping up to do what

they were contractually obligated to do — and had always done — before the General Security, Greystone and their progeny of cases incorrectly interpreted Colorado's existing public policy.

Yet for a number of responsible insurance carriers who have always done the right thing, the bill's passage has no effect on them. "I applaud the responsible carriers and responsible brokers," Polk said.

"Uniformly, those mainline, well-established insurance carriers have said this is the way they've always done business and the bill is not going to have an effect on them."

Other carriers, he cautioned, will have to change their business practices. "They say they're going to have to engage in more careful underwriting before they issue policies, which is something I think they should have been doing all along," Polk said. "There's a third category of insurance carriers who really wanted out of this market anyway. They say HB-1394 is going to cause a premium increase or they'll go out of the market. And to some of those carriers, I simply say, 'Good riddance. You weren't providing coverage anyway.'"

This unique alliance between home builders and owners benefited everyone involved: home builders, home owners, subcontractors. "This shows what can be accomplished when people who look like they're on the other side of the fence can achieve when they're really looking out for the overall interest of both sides of the transaction," Polk said. "We will disagree with the plaintiffs' bar and they will disagree with us. But I think this shows a very unique circumstance, where a cooperative effort is a benefit to both our industry and the consumer."

CAHB to Polk and members: Thank you!

Durham noted that while the rare alliance played a big part in the bill's passage, Dennis Polk's contribution was significant. "The industry really owes a debt of gratitude to Dennis Polk, who practically lived at the capitol during the month this was pending. He tackled technical changes and dispelled myths that the insurance industry was putting forward."

He added that members also stepped up to further the bill's success through e-mails and commentaries "that were very important to us," he said. "Lobbyists are only as good as the support they get from their members and we got great support on this issue." ■